

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

**COLONIAL OAKS ASSISTED LIVING CASE NO. 6:18-CV-01606
LAFAYETTE**

VERSUS

JUDGE DOUGHTY

HANNIE DEVELOPMENT INC

MAGISTRATE JUDGE HANNA

MEMORANDUM RULING

Currently pending is the Defendant Hannie Development Inc.'s (Defendant) Motion for Attorneys' Fees and Costs [Doc. No. 75]. Also pending is the Plaintiff Colonial Oaks Assisted Living Lafayette's (Plaintiff) Motion to Dismiss Motion for Attorneys' Fees and Costs [Doc. No. 78]. For the reasons set forth herein, the Defendant's Motion for Attorneys' Fees and Costs [Doc. No. 75] is **DENIED** as premature, without prejudice, to the Defendant's right to reassert the motion after appeal. The Plaintiff's Motion to Dismiss Motion for Attorneys' Fees and Costs [Doc. No.78] is **GRANTED**.

Background

On November 4, 2019, this Court issued final judgments, ruling in favor of Defendant and dismissing Plaintiff's claims in this lawsuit. [Doc No.'s 73 and 74]. On November 18, 2019, Defendant filed a Motion for Attorneys' Fees and Costs [Doc. No. 75], through which they seek an award of attorney fees and expenses as the prevailing party in this matter.

On December 2, 2019, Plaintiff filed a Notice of Appeal [Doc. No. 77], thereby instituting an appeal to the U.S. Fifth Circuit Court of Appeals from this Court's November 4, 2019 judgments. On December 3, 2019, Plaintiff filed a Motion to Dismiss Motion for Attorneys' Fees and Costs [Doc. No. 78], arguing that the Defendant's Motion for Attorneys' Fees and Costs is premature.

Law and Analysis

In its Motion to Dismiss Motion for Attorneys' Fees and Costs [Doc. No. 78], the Plaintiff argues that since an appeal is pending, it would be more prudent for the Court to decline to consider a motion for attorneys' fees and costs until after the appeal is completed, citing the Western District of Louisiana case of *Trahan v. Melancon*, No. 6:14-cv-00722 (2017) U.S. Dist. Lexis 50552 (W.D. La. March 31, 2017).

To the Motion to Dismiss Motion for Attorneys' Fees and Costs, the Defendant filed an Opposition [Doc. No. 83], arguing that it would be in the interest of judicial economy for this Court to determine the attorneys' fees and costs issue at this time prior to the appeal to avoid having two different appeals.

After having considered this matter, this Court believes that it would be in the interest of judicial economy and prudent to wait and consider the attorneys' fees and costs issue after the appeal has been resolved. Therefore, the Plaintiff's Motion to Dismiss Motion for Attorneys' Fees and Costs [Doc. No. 78] is **GRANTED** and

Defendant's Motion for Attorneys' Fees [Doc. No. 75], is **DENIED** as premature, without prejudice, subject to the Defendant's right to reassert the motion within sixty (60) days after the appeal of the merits is resolved.

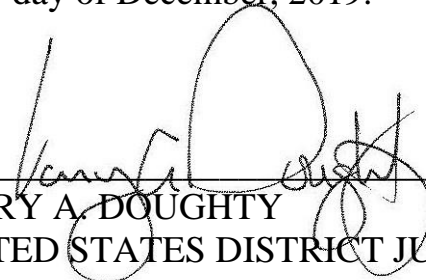
Conclusion

For the foregoing reasons,

IT IS ORDERED that the Defendant's Motion for Attorneys' Fees and Costs [Doc. No. 75], is **DENIED** as premature, without prejudice to the Defendant's right to renew the motion within sixty (60) days following the resolution of the appeal currently pending before the Fifth Circuit Court of Appeals, and,

IT IS FURTHER ORDERED that the Petitioner's Motion to Dismiss Motion for Attorneys' Fees and Costs [Doc. No. 78] is **GRANTED**.

Signed at Monroe, Louisiana this 27th day of December, 2019.



TERRY A. DOUGHTY
UNITED STATES DISTRICT JUDGE